



# STATE OF CONNECTICUT

## PUBLIC UTILITIES REGULATORY AUTHORITY

Energy and Technology Committee

Public Hearing, March 7, 2023

Testimony submitted and presented by:  
PURA Position:

*Marissa P. Gillett, Chairman*  
*Informational*

### **Raised H.B. No. 6851 – An Act Implementing Recommendations of the Hydrogen Task Force**

Thank you for the opportunity to present testimony regarding ***An Act Implementing Recommendations of the Hydrogen Task Force***. The Public Utilities Regulatory Authority (PURA or the Authority) welcomes the opportunity to offer the following ***informational testimony***, as well as additional information regarding a future hydrogen economy for Connecticut and how PURA's existing authority may apply.

The Authority commends the coordinated efforts of the Hydrogen Task Force, led by the Connecticut Green Bank.

#### **Section 1**

PURA supports **Section 1** of this bill to prioritize further research on how to target clean hydrogen at end uses that are difficult to electrify. Careful analysis will help ensure that Connecticut strategically deploys clean hydrogen in ways that maximize benefits and contributions to meeting the state's specific energy and climate policy goals. This same consideration should also be applied to understanding what distribution options the state has for clean hydrogen, as discussed further below.

#### **Section 2**

The Authority also supports **Section 2's** amendment of Conn. Gen. Stat. § 31-53d to include clean hydrogen projects among those required to establish a workforce development program, enter into a community benefits agreement with an organization representing the community's residents, and require that contractors pay prevailing wage. These are crucial steps to ensuring that energy generators of the future benefit, rather than harm, surrounding communities. Currently, Conn. Gen. Stat. § 31-53d encompasses Class I renewable energy sources, which include fuel cells. This means, however, that hydrogen is only covered in its capacity to power fuel cell generation. Specifying that clean hydrogen is subject to the same equity requirements as other clean and renewable energy resources helps to ensure that disadvantaged communities are both participants in and beneficiaries of clean hydrogen deployment.

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## PURA's Existing Regulatory Authority as It Relates to Clean Hydrogen

As Connecticut continues to plan for a future clean hydrogen economy, the Authority has begun to informally assess what role PURA may play given its current statutory authority. Careful consideration of PURA's role now will be essential to ensuring ratepayers do not become unnecessarily or excessively burdened by future policies. The initial question is to what extent does Title 16 of the General Statutes of Connecticut grant PURA jurisdiction over hydrogen infrastructure and the companies that would produce, sell, and transport hydrogen?

As a foundation, the Authority is statutorily charged with ensuring that Connecticut's public service companies, or "utilities" as used throughout, provide safe, clean, reliable, and affordable service related to their monopoly franchise (e.g., delivery of electricity, natural gas, or drinking water) to the customers, or ratepayers, within their exclusive service territory. The utilities are required to invest in and maintain infrastructure to provide these services. Presently, PURA's regulatory jurisdiction covers the in-state, investor-owned electric, natural gas, and water utilities, as well as aspects of the telecommunications industries, natural gas pipeline safety matters, and the retail electric supplier market.

In answering the above question, the Authority considered two broad scenarios under which hydrogen infrastructure may be deployed in the state. One is that the local distribution companies (LDCs; also known as the natural gas utilities) use their natural gas pipeline infrastructure to distribute hydrogen. In this case, the LDCs would likely seek to rate base any requisite hydrogen infrastructure costs, as they do with the infrastructure necessary to deliver natural gas to customers. Pursuant to Conn. Gen. Stat. § 16-1(3) and (5), the terms "gas company" and "public service company" are broadly defined to include the distribution of "gas for sale *for heat or power*." (emphasis added). Although the term "natural gas" (which may or may not include hydrogen) is used in the statutes, the term itself is not defined and is not used to define a "gas company."

Given the generality of the statutory language, there is a reasonable basis to conclude that the LDCs could store, transmit, and distribute hydrogen gas under the existing statutory structure for "natural gas." In short, an LDC may be permitted to use existing or new infrastructure to deliver hydrogen for the purposes of heat or power and to recover the cost of such infrastructure through rates under the current cost-of-service regulatory paradigm. If this were the case, any cost recovery would be subject to Conn. Gen. Stat. §§ 16-19 and 16-19e(a).

The second scenario involves hydrogen production, sales, and distribution through companies other than regulated LDCs. Generally, only public service companies, such as LDCs, are permitted to build infrastructure in the public right of way; therefore, distribution of hydrogen via infrastructure in the public right of way would likely be limited to gas public service companies under the current statutory structure. However, the production and distribution of gas does not necessarily require infrastructure in the public right of way. For example, propane companies can sell and distribute Liquid Natural Gas (LNG) by truck. Therefore, Title 16 may permit entities not subject to cost-of-service regulation to produce, sell, and distribute hydrogen. As with the propane example, the Authority might retain some jurisdiction for the purposes of safety, limited to infrastructure crossing property lines and/or entering the public right of way, but would generally not regulate rates.

In summary, Title 16 does not directly address the production, sale, or distribution of hydrogen gas; however, the language in statutes related to gas companies and natural gas is fairly broad and could be interpreted as extending PURA's rate regulation and safety jurisdiction to include the distribution of

hydrogen by public service companies for the purposes of heat or power. Ultimately, the statutes may require revision to further clarify PURA's role in regulating hydrogen.

The analysis above should not be construed as PURA advocating for an expansion of its statutory responsibilities for oversight of either natural gas or hydrogen delivery or to expand the application of cost-of-service regulation. As indicated above, the Authority supports HB 6851's focus on conducting further research regarding end uses. As a result of the above exercise, PURA also strongly recommends that this same focus be applied to considering which distribution technologies will be most beneficial to end users and the state. Given the wide variety of potential end uses, PURA is not yet convinced that using existing or expanding natural gas pipelines owned by the LDCs are the optimal options, as existing pipelines may not reach all potential end-use sites or serve all necessary end uses.

Additionally, rate-basing hydrogen infrastructure outside of the LDCs' existing franchise and for purposes other than heat and power will impose costs on natural gas ratepayers that may not actually consume any hydrogen. Moreover, allowing the LDCs to rate-base infrastructure unrelated to their existing franchise has significant long-term implications; namely, it would allow an LDC to expand its monopoly and to gain a large market share of a nascent industry in Connecticut. The expansion of monopolies should be done with great care and consideration, and limited to situations where market solutions are not available or inefficient. The Authority is not convinced that market solutions are unavailable in this instance.<sup>1</sup> For example, to the extent new gas pipeline infrastructure that does not require connection to the LDCs' existing system is needed to serve a specific hydrogen end use, the Authority sees no reason that such services and infrastructure could not be competitively procured by the end user. Therefore, the Authority recommends that the state further investigate transmission and distribution options that take advantage of market competition and fairly and equitably allocate costs.

## Conclusion

The Authority commends the participants of the Hydrogen Task Force for their efforts to further the strategic deployment of clean hydrogen in Connecticut. The Authority also appreciates the opportunity to present its informal analysis of its jurisdiction over hydrogen distribution infrastructure, and welcomes further opportunities to discuss.

*Thank you for the opportunity to present testimony on this proposal. If you should require any additional information, please contact Taren O'Connor at 860-827-2689(o), 860-999-3498(c) or by email at: [taren.oconnor@ct.gov](mailto:taren.oconnor@ct.gov).*

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<sup>1</sup> The Authority notes that the LDCs could still participate in a competitive market through an unregulated affiliate.